

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

NATHAN BLADT;

Audubon County, Iowa

ADMINISTRATIVE CONSENT ORDER

NO. 2010-AQ- **28**

NO. 2010-SW- **26**

TO: Nathan Bladt

~~323 Pacific Avenue~~

Audubon IA 50025-1131

1006 Chicago St

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (Department) and Nathan Bladt for the purpose of resolving an issue pertaining to illegal solid waste disposal, including the illegal open burning of solid waste. In the interest of avoiding litigation, the parties have agreed to the provisions below. This Administrative Consent Order (Order) is being issued in conjunction with additional orders which relates to the other parties involved in this matter.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Dan Stipe, Field Office 4
Iowa Department of Natural Resources
1401 Sunnyside Lane
Atlantic, IA 50022
Phone: (712) 243-1934

Relating to legal requirements:

Jon Tack, Attorney for the DNR
Iowa Department of Natural Resources
502 E 9th St.
Des Moines, IA 50319
Phone: 515/281-

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B,

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Division II (air quality), and the rules promulgated or permits issued pursuant to that part; Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Nathan Bladt is engaged in the business of construction, including the removal and disposal of waste shingles.
2. On September 18, 2009, the Department received a complaint alleging that Marty Juelsgaard was hauling the wood shake shingles that had been removed from the Landmands Bank in Audubon, Iowa to a rural property and burning the shingles. The burning was alleged to be occurring at the property of Tony Bush, an employee of Mr. Bladt and Mr. Juelsgaard.
3. On September 18, 2009, Mr. Stipe inspected the property of Tony and Laura Bush. Laura Bush gave Mr. Stipe permission to inspect the property. A large pile of ash was observed on the site. The ash contained numerous nails, consistent with the burning of wood shingles. Mr. Stipe reported his observations to Laura Bush who reported that a large amount of landscape waste had been burned at the site. The existence of the nails was not consistent with the burning of landscape waste.
4. On September 22, 2009, Mr. Stipe contacted Rod Roland, President of the Landmands Bank. Mr. Roland indicated that that the bank had paid Nathan Bladt to remove shingles from the bank and had paid \$600 for landfill disposal costs. Mr. Roland provided the Department with a copy of the bill showing the landfill disposal charge.
5. On September 22, 2009, Notices of Violation were sent to Marty Juelsgaard, Tony Bush, and Nathan Bladt.
6. On October 8, 2009, Janet Hansen, Audubon County landfill director, contacted Mr. Stipe and notified him that Mr. Juelsgaard and Mr. Bladt had delivered loads of solid waste to the transfer station and inquired whether Mr. Stipe wanted to inspect the loads. Mr. Stipe went to the landfill and inspected the loads. The loads did not consist of wood shake shingles. Ms. Hansen indicated that the loads had been kept segregated from other waste and had not been mixed with solid waste delivered by other generators. A photograph was taken.
7. On October 9, 2009, Nathan Bladt faxed disposal receipts to the Department, which Mr. Bladt alleged were receipts for the disposal of the shingles from the Landmand Bank. The receipts provided insufficient information to overcome the evidence of burning observed by the Department at the property of Tony Bush on September 18, 2009.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 23.2 states that no person shall allow, cause, or permit open burning of combustible materials except as provided in subrules 567 IAC 23.2(2) (variances) and 567 IAC 23.2(3) (exemptions). The burning documented in this matter does not fall under 567 IAC 23.2(2) exemptions and the burning of trade wastes is specifically prohibited. The above facts demonstrate a violation of this provision.

3. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director. The Department has documented violations of these provisions by Nathan Bladt.

V. ORDER

THEREFORE, the Department orders and Nathan Bladt agrees to the following:

1. Nathan Bladt shall pay a penalty in the amount of \$500 within 30 days of the execution of this Order.

VI. PENALTY

1. Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000 per day of violation for each of the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A. Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the solid waste disposal violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty of \$500. The administrative penalty is determined as follows:

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Economic Benefit – An economic benefit was achieved from the violations documented herein. The illegal open dumping and open burning of solid waste results in the avoidance of time, labor and disposal costs. Disposal costs for the solid waste burned at the Bush property are estimated to be at least \$600 (the amount paid by Landsmands Bank for proper disposal. Some of the shingles were disposed of at the transfer station and hauling costs were incurred. Based upon these facts, a penalty of \$300 is assessed for this factor.

Gravity – The improper disposal and burning of solid waste toxins threatens ambient air quality. The improper burial of solid waste may cause groundwater contamination. Based upon these considerations, a penalty of \$100 is assessed for this factor.

Culpability – Nathan Bladt is engaged in the construction business. His business regularly generates trade waste and he has a duty to be aware of the applicable regulations. Disposal receipts indicate that waste from other projects has been delivered for proper disposal, indicating an awareness of disposal requirements. In light of these factors, a penalty of \$100 is assessed for this factor.

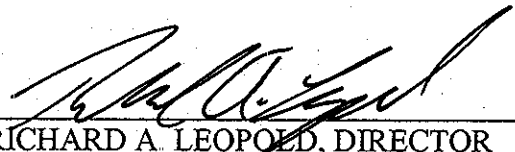
VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Nathan Bladt. For that reason Nathan Bladt waives his right to appeal this administrative consent order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code sections 455B.146 and 455B.307. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

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RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 20 day of
May, 2010.



NATHAN BLADT

Dated this 11 day of
May, 2010.

Field Office 4; VI C; VII C.1